THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12477 of 2006

09.2.2007

Between:

Smt.D.Rathnamma, W/o.Subba Reddy

... Petitioner

AND

The Assistant Commissioner, Endowments Department, Chittoor

And others

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.12477 of 2006

ORDER:

The land admeasuring Acs.1.00 in survey No.71/3 and Acs.0.25 in survey No.72 situated at Thummalagunta village of Tirupathi Rural Mandal in Chittoor District. The petitioner alleges that he had been in possession of the property for over 50 years and he is also entitled for the benefit under Section 82(2) of A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987 (the Act, for brevity). The Administrative Officer of Sri Swamy Hathiramji Mutt – the third respondent herein; issued a notice on 26.6.2003 directing the petitioner to deliver possession of the property. Subsequently, the petitioner filed an application before the Assistant Commissioner of Endowments, Chittoor – first respondent herein. The first respondent by an order dated 04.9.2003, passed under Rule 3 of A.P. Charitable and Hindu Religious Institutions & Endowments (Lease of Agricultural Land) Rules, 2003 (the Rules, for brevity), refused to recognize the petitioner as landless poor person for the purpose of treating him as cultivating tenant. Feeling aggrieved by the same, the petitioner preferred appeal being Appeal No.64 of 2003 under Rule 4 of the Rules. By an order dated 16.8.2005, the second respondent – appellate authority; dismissed the said application. The petitioner then filed I.A.No.34 of 2005 praying the second respondent to set aside the order dated 16.8.2005 on the ground that the same was not on merits. The same was returned aggrieved by which, the present writ petition is filed.

After hearing the learned Counsel for the petitioner, learned Assistant Government Pleader for Endowments and learned Standing Counsel for third respondent, the only question that would arise is whether the order dated 16.8.2005 in Appeal No.64 of 2003 passed by the second respondent is on merits or not. A perusal of the order would show that on number of occasions, learned Counsel for the petitioner was absent before the Appellate Authority and when the case was called on 16.8.2005 there was no representation. Therefore, the appeal was dismissed. By no stretch of imagination, the order can be treated as one on merits. There is no advertence to the facts of the case, contentions raised, points for consideration and reasons therefor. Therefore, this Court holds the impugned order is not on merits. As the valuable rights of the petitioner are involved with regard to the question whether the petitioner is a landless poor person or not for the purpose of Section 82 of the Act, it would be in the interest of justice to direct the second respondent to re-hear matter and dispose of the appeal afresh.

Accordingly, the impugned order is set aside and the matter is remitted to the second respondent with a direction to dispose of the appeal within a period of four weeks from the date of receipt of a copy of this order. The petitioner is given liberty to approach the second respondent on 19.2.2006 with a copy of this order and obtain a date of hearing.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

(**V.V.S.RAO,J**)

February 09, 2007.
YS